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# 191575

Ordinance

## Consent to the transfer of a residential solid waste, recycling, and composting collection franchise from Elmer's Sanitary Service LLC to Waste Management of Oregon, Inc.

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. In 2018, the Council granted a residential solid waste, recycling, and composting collection franchise to Elmer's Sanitary Service LLC. The franchise established terms and conditions for the delivery of garbage hauling services within a specific geographic territory of the city (Ordinance No. 189242).
2. Portland City Charter Section 10-216 provides that no franchise shall be sublet or assigned, nor shall any of the franchise rights or privileges be leased, assigned, sold or transferred, without the consent of the City expressed by non-emergency ordinance. Under Section 15.A of the franchise, the grantee agrees not to sell, lease, mortgage, assign, merge or otherwise transfer the franchise without the prior written consent of the City.
3. Elmer's Sanitary Service LLC has notified the Bureau of Planning and Sustainability (BPS) of its agreement to sell its franchise to Waste Management of Oregon, Inc., effective 30 (thirty) calendar days after passage of this Ordinance.
4. Elmer's Sanitary Service LLC has requested that the City consent to its franchise transfer.
5. Excellent customer service is essential to a well-functioning solid waste system including adherence to City Code 17.102.040 and BPS Administrative Rule 3.2.
6. Prior to receiving the application for transfer from Waste Management, BPS staff had been working with Waste Management of Oregon to improve their customer service and ensure adherence to City Code and BPS Administrative rules.
7. Section 15.A of the Residential Solid Waste Franchise provides that the City may condition the transfer of a residential solid waste franchise upon such conditions as it deems appropriate.

Introduced by

[Commissioner Carmen Rubio](#)

Bureau

[Planning and Sustainability \(BPS\)](#)

Contact

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Manager

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Requested Agenda Type

Consent

Date and Time Information

Requested Council Date


January 10, 2024

8. BPS staff have negotiated conditions with Waste Management that are intended to improve Waste Management customer service outcomes. Waste Management of Oregon has agreed to abide by the negotiated conditions, which are set forth in Exhibit A attached to this Ordinance.
9. In accordance with Section 15.A of Elmer's Sanitary Service LLC's franchise, BPS staff have reviewed the proposed transfer. BPS determined that Waste Management of Oregon, Inc. has the technical, legal, and financial resources to adequately perform all obligations under the franchise.
10. BPS staff recommends that the Council consent to the franchise transfer.

NOW, THEREFORE, the Council directs:

- A. Pursuant to the City Charter and Elmer's Sanitary Service LLC's franchise, consent is hereby given to the transfer of the franchise from Elmer's Sanitary Service LLC to Waste Management of Oregon, Inc., subject to Waste Management's adherence to all agreed upon conditions set forth in Exhibit A to this Ordinance.
- B. Failure to comply with any of the conditions set forth in Exhibit A may be the basis for a conditional forfeiture process for the franchise serving Elmer's customers, as set forth in Residential Solid Waste, Recycling, & Composting Administrative Rule 3.5(B).
- C. BPS staff may discontinue any of the conditions set forth in Exhibit A at any time if BPS determines such conditions are no longer necessary.
- D. Within 10 (ten) business days of the execution of the transfer, Waste Management of Oregon, Inc. must file with the City Auditor and BPS a copy of the instrument executing the transfer, in accordance with Section 15.A of Ordinance No. 189242.
- E. Within 10 (ten) business days of the effective date of this ordinance, Waste Management of Oregon, Inc. must file in the Office of the Auditor of the City of Portland a written acceptance, executed by a duly authorized representative, acceptable as to form by the City Attorney. Such acceptance must be unqualified and will be construed to be an acceptance by Waste Management of Oregon, Inc. of all terms, conditions, and restrictions of this Ordinance. Any failure to file such written acceptance within such time will be deemed an abandonment and rejection of the rights and privileges conferred hereby and this Ordinance will thereupon be null and void.

## Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2023/exhibita\\_conditionsrequiredconsentresidentialwastefranchiseelmerstowm.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2023/exhibita_conditionsrequiredconsentresidentialwastefranchiseelmerstowm.pdf) 366.96 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council  
January 10, 2024

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

Elmer's Sanitary Service LLC has been granted a residential solid waste, recycling and composting collection franchise. Portland's City Charter states that no sale or transfer of any franchise is allowable without Council approval. Waste Management of Oregon, Inc. and Elmer's Sanitary Service LLC have informed the Bureau of Planning and Sustainability of Elmer's Sanitary Service LLC's intent to sell their franchise to Waste Management of Oregon, Inc. The Bureau of Planning and Sustainability supports this request and recommends conditions intended to address and improve Waste Management's customer service.

### Financial and Budgetary Impacts

There are no financial or budgetary impacts resulting from this action.

### Community Impacts and Community Involvement

There are no community impacts.

### 100% Renewable Goal

n/a

### Budget Office Financial Impact Analysis

Elmer's Sanitary Service intends to sell their franchise to Waste Management of Oregon, so the terms of agreement don't change. There are no financial impacts from this ordinance.

## Agenda Items

1064 Consent Agenda in [December 20, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/12/20)  
(<https://www.portland.gov/council/agenda/2023/12/20>)

Passed to second reading

Passed to second reading January 10, 2024 at 9:30 a.m.

16 Consent Agenda in [January 10-11, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/1/10)  
(<https://www.portland.gov/council/agenda/2024/1/10>)

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea